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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,523	01/29/2004	Milton Sherrill	23-0714	5542

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SIOUX FALLS, SD 57105

EXAMINER

BARFIELD, ANTHONY DERRELL

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/767,523

Applicant(s)

SHERRILL, MILTON

Examiner

Anthony D Barfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,3-4,8-9 and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones. Jones a collapsible chair (10) comprising a base portion having assembly comprising a cushioned upper surface (70) adapted for supporting a user. A plurality of legs, each being pivotally coupled to the base portion such that each leg pivots between a collapsed position and a use position. A back portion (68) formed by a pair of posts (32) extending from planar base members (21) pivotally coupled to the base portion and a flexible sheet member (66) extending between the posts.

3. Claims 1-3, 10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones. Jones a collapsible chair comprising a base portion (10) having assembly comprising a cushioned upper surface (s) adapted for supporting a user. A plurality of legs (12,14), each being pivotally coupled to base portion such that each leg pivots between a collapsed position and a use position. A back portion (24) formed by a pair of posts (18) extending from planar base members (Fig. 1) pivotally coupled to the base portion and a flexible sheet member (24) extending between the posts.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-9 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas in view of Chen. Thomas shows all of the teachings of the claimed invention except the use of telescopically adjustable legs. Chen shows the conventional use of independent and telescopically adjustable legs (14,16) including a lock (22) to lock the legs at a fixed length. Chen further shows (see Figs. 1 and 3) the use of a foot member which inherently engages a respective leg about a perimeter wall of the foot member. Regarding claim 13, the peripheral wall along with its overhanging lip would inherently hold the feet members with respect to the base when folded. It would have been an obvious to one of ordinary skill in the art at the time of the invention to modify the chair of Thomas with the teachings of Chen in order to allow for the chair to be adjustable for various users and support surfaces.

Conclusion

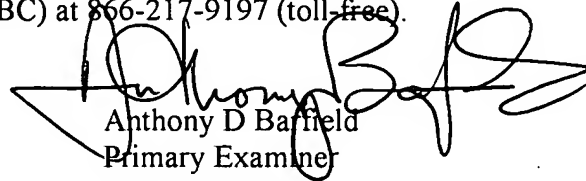
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reference Nos. 2,966,204, 3,909,061, 4,193,630, and 6,698,830 show features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D Barfield whose telephone number is 703-308-2158

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until April 7, 2005, afterwards the examiner may be reached at 571-272-6852. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Anthony D Barfield
Primary Examiner
Art Unit 3636

adb
March 16, 2005